

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CINTHIA COLLINS, n/k/a CINTHIA)	2:11-CV-01105-ECR-GWF
MARSHALL,)	
)	<u>Order</u>
Plaintiff,)	
)	
vs.)	
)	
CHICAGO INVESTMENT GROUP, LLC,)	
)	
Defendant.)	
)	

This action is an appeal from an arbitration decision made by the Financial Industry Regulatory Authority ("FINRA"). Now pending before the Court is Plaintiff's Motion to Vacate (#1). The motion is ripe and we now rule on it.

I. Background

Plaintiff, a former employee of Defendant, executed a FINRA Arbitration Submission Agreement (#6-A) on November 11, 2009. On June 9, 2011, a FINRA Arbitrator in Chicago, Illinois entered an award in favor of Defendant and against Plaintiff, holding Plaintiff liable for \$28,000 in compensatory damages and dismissing her counterclaim. (FINRA Arbitration Order (#6-B).)

1 On July 5, 2011, Plaintiff filed a motion to vacate (#1) the
2 arbitration award in this Court. Defendant responded (#6) on August
3 15, 2011. Plaintiff did not reply.

4 5 II. Legal Standard

6 The burden of establishing grounds for vacating an arbitration
7 award is on the party seeking vacatur. U.S. Life Ins. Co. v.
8 Superior Nat'l Ins. Co., 591 F.3d 1167, 1173 (9th Cir. 2010).
9 Review of the award is "both limited and highly deferential."
10 Poweragent Inc. v. Elec. Data. Sys. Corp., 358 F.3d 1187, 1193 (9th
11 Cir. 2004). Indeed, pursuant to the Federal Arbitration Act ("FAA"),
12 federal courts may only vacate arbitration awards in very limited
13 circumstances. FAA section 10 permits vacatur only:

- 14 (1) where the award was procured by corruption, fraud, or
15 undue means;
- 16 (2) where there was evident partiality or corruption in
the arbitrators, or either of them;
- 17 (3) where the arbitrators were guilty of misconduct in
18 refusing to postpone the hearing, upon sufficient
cause shown, or in refusing to hear evidence
19 pertinent and material to the controversy; or of any
other misbehavior by which the rights of any party
20 have been prejudiced; or
- 21 (4) where the arbitrators exceeded their powers, or so
imperfectly executed them that a mutual, final, and
22 definite award upon the subject matter submitted was
not made.

23 Kyocera v. Prudential-Bache Trade Servs., Inc., 341 F.3d 987, 997 (9
24 th Cir. 2003) (quoting 9 U.S.C. § 10(a)).

25 The Ninth Circuit has further clarified that arbitrators
26 "exceed their powers" when the award is (1) "completely irrational"

1 or (2) exhibits a "manifest disregard of the law." Id. Absent such
2 complete irrationality or manifest disregard of the law, "[n]either
3 erroneous legal conclusions nor unsubstantiated factual findings
4 justify federal court review of an arbitral award under the [FAA],
5 which is unambiguous in that regard." Id. at 994. The completely
6 irrational standard is extremely narrow and is satisfied only where
7 the arbitration decision fails to draw its essence from the contract
8 at issue. Bosack v. Soward, 586 F.3d 1096, 1106 (9th Cir. 2009).
9 With regard to demonstrating a manifest disregard of the law, "the
10 moving party must show that the arbitrator understood and correctly
11 state the law, but proceeded to disregard the same." Collins v.
12 D.R. Horton, Inc., 505 F.3d 874, 879 (9th Cir. 2007) (internal
13 quotation marks and citation omitted).

14 15 III. Discussion

16 Plaintiff argues that the arbitration award was improper and
17 should be vacated for the following reasons: (1) the arbitrator
18 abused his discretion in granting Defendant's motion to change the
19 arbitral venue from Las Vegas, Nevada to Chicago, Illinois; (2) the
20 arbitrator came to the wrong substantive decision; (3) the
21 arbitrator erroneously characterized the sum alleged due and owing
22 as a loan; (4) Defendant owes Plaintiff payment for her services
23 during May, 2009.

24 As is apparent from Plaintiff's arguments, Plaintiff seeks to
25 re-litigate the issues decided by the arbitrator. Significantly,
26 Plaintiff has failed to provide an appropriate basis for vacatur
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1 under the FAA: Plaintiff has not argued that the award was procured
2 by fraud, corruption, or undue means, nor that the arbitrator was
3 evidently partial or corrupt, nor that the arbitrator was guilty of
4 misconduct. To the extent that Plaintiff argues that the arbitrator
5 exceed his power in changing venue to Chicago, Illinois and in
6 making the award, Plaintiff cannot show the award was "completely
7 irrational" or exhibits a "manifest disregard of the law." See
8 Kyocera, 341 F.3d at 997. In performing its own review of the FINRA
9 Arbitration Order (#6-B), the Court can find no basis to conclude
10 that the award was "completely irrational." A court cannot vacate
11 an award simply because the court may have interpreted the contract
12 differently. Bosack, 586 F.3d at 1106. Likewise, there is no
13 evidence of the arbitrator's "manifest disregard of the law." See
14 id. at 1104 ("There must be some evidence in the record, other than
15 the result, that the arbitrators were aware of the law and
16 intentionally disregarded it."). For these reasons, the arbitration
17 award must stand, as Plaintiff has failed to establish an
18 appropriate basis for vacatur pursuant to the FAA, 9 U.S.C. § 10.

19 20 IV. Conclusion

21 Plaintiff seeks to re-litigate the issues decided in
22 arbitration and has therefore failed to meet her burden of
23 establishing grounds for vacatur of the arbitration award at issue
24 pursuant to the FAA, 9 U.S.C. § 10.

1 IT IS, THEREFORE, HEREBY ORDERED that Plaintiff's motion to
2 vacate (#1) is DENIED.

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5 The Clerk shall enter judgment accordingly.

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9 DATED: March 19, 2012.

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UNITED STATES DISTRICT JUDGE

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